

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 2/18/2020

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THE NEW YORK TIMES COMPANY and
EILEEN SULLIVAN,

Plaintiffs

v.

UNITED STATES BUREAU OF ALCOHOL,
TOBACCO, FIREARMS and EXPLOSIVES,

Defendant.
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Case No: 18-cv-2902 (SDA)

**STIPULATION AND
ORDER OF SETTLEMENT
AND DISMISSAL**

WHEREAS, Plaintiffs the New York Times Company and Eileen Sullivan ("Plaintiffs") filed this suit in the United States District Court for the Southern District of New York pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, seeking the release of certain records by Defendant United States Bureau of Alcohol, Tobacco, Firearms, and Explosives ("Defendant" or "ATF"), in connection with an earlier administrative request for the same information (the "FOIA request");

WHEREAS, following initiation of this action, ATF released certain records to Plaintiffs called for by the FOIA request;

WHEREAS, Plaintiffs are satisfied with ATF's production;

WHEREAS, the parties have now agreed to resolve Plaintiffs' claims in this matter, including a claim for fees and costs, upon the terms and subject to the conditions set forth in this Stipulation and Order;

IT IS HEREBY STIPULATED AND AGREED, by and between the parties, and subject to endorsement by the Court, as follows:

1. The documents produced by ATF fully settle any and all claims Plaintiffs now have or may hereafter acquire against ATF or the United States of America (“United States”), or any department, agency, officer, or employee of ATF and/or the United States, related to or arising out of Plaintiffs’ FOIA request at issue in this action.

2. As soon as reasonably practicable after the Court has endorsed and docketed this Stipulation and Order, ATF shall pay to Plaintiffs the sum of one thousand, seven hundred and fifty eight dollars (\$1,758) for attorneys’ fees and litigation costs. This payment shall constitute full and final satisfaction of any claims by Plaintiffs for attorneys’ fees and litigation costs in this matter, and is inclusive of any interest. Payment shall be made by electronic funds transfer, and counsel for Plaintiffs will provide the necessary information to counsel for ATF to effectuate the transfer.

3. This action is hereby dismissed with prejudice, and without costs or fees other than as provided in paragraph 2 of this Stipulation and Order, provided that the Court shall retain jurisdiction over any issues that may arise relating to this Stipulation and Order.

4. Nothing in this Stipulation and Order shall constitute an admission that ATF is liable for any attorneys’ fees or litigation costs, or that Plaintiffs “substantially prevailed” in this action under 5 U.S.C. § 552(a)(4)(E), or are entitled to or eligible for any attorneys’ fees or litigation costs. This Stipulation and Order is entered into by the parties solely for the purpose of compromising disputed claims in this case and avoiding the expenses and risks of further litigation concerning Plaintiffs’ claims for attorneys’ fees and litigation costs. This Stipulation and Order is non-precedential with respect to any other proceeding involving either of the parties, including, but not limited to, any other FOIA action or administrative proceeding, and

shall have no effect or bearing on any pending or future request for records made by Plaintiffs under FOIA.

5. The parties understand and agree that this Stipulation and Order contains the entire agreement between them, and that no statements, representations, promises, agreements, or negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect.

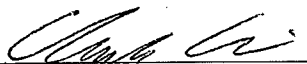
6. The parties understand and agree that this Stipulation and Order may be signed in counterparts, each of which constitutes an original and all of which constitute one and the same Stipulation. Facsimiles and/or PDFs of signatures shall have the same force and effect as original signatures and constitute acceptable, binding signatures for purposes of the Stipulation.

Dated: February 17, 2020

Dated: February 17, 2020


GEOFFREY S. BERMAN
United States Attorney
Southern District of New York

By:


CHARLES CRAIN
Media Freedom & Information Access Clinic
Yale Law School, Abrams Institute
P.O. Box 208215
New Haven, CT 06520
Tel.: (202) 436-5824
Email: charles.crain@YLSCLinics.org


Counsel for Plaintiffs

By:


EMILY BRETZ
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, NY 10007
Tel.: (212) 637-2777
Email: emily.bretz@usdoj.gov

Counsel for Defendant

SO ORDERED:


HON. STEWART D. AARON
United States Magistrate Judge

Dated: February 18, 2020